

wherein alkyl, alkanol, alkoxy and alkylamino groups may be straight chained or branched.--

Amend the remaining claims as follows:

In claim 2, line 1, change "Compounds" to --A compound-- and "1" to --9, selected from the group consisting of--.

In claim 5, line 2, change "1 and 2" to --9 or 2--.

In claim 6, line 2, change "characterized in that" to --wherein--, and on line 3, change "1 and 2" to --9 or 2--.

In claim 7, line 1, change "claims 1 to 6" to --one of claims 9 or 2--.

REMARKS

With entry of this amendment, claims 2 and 5-14 are pending. The claims have been rewritten to overcome 35 USC § 112 rejections and not for the purpose of distinguishing from the prior art. Support for the claims can be found in the originally filed claims and in the specification. Support for new claims 13 and 14 can be found in particular on page 6, paragraphs 3-5. No new matter has been added. Reconsideration is requested.

Claims 3 and 4 were rejected under 35 USC § 101 as containing nonstatutory subject matter. Claims 3 and 4 have been rewritten as method claims 13 and 14. It is believed that they recite proper subject matter are free of the rejection. Favorable consideration is requested.

Claims 1 and 2 have been rejected under 35 USC § 102(b) as being anticipated by Evans et al., and under 35 USC § 103(a) as being unpatentable over Evans et al. and Poletto et al. This rejection is traversed for the following reasons.

Evans describes indole-3-glyoxylic acid derivatives. However, the derivatives show other substituents at the glyoxylic amino group. Furthermore, although the derivatives of Evans demonstrate good antiemetic potency, they do not have activity against asthma and allergies, and do not have immunological activity, as do the presently claimed compounds.

Poletto describes substituted indoles with an ethylene amino group in the 3-position. While it is true that the synthesized compounds are 3-glyoxylic groups, they are not amides in the intermediate compounds.

Furthermore, Poletto's compounds have a wide variety of activities as CNS depressants, analgesics, tranquilizers, diuretic agents and anti-inflammatory agents (U.S. 3,501,594, col. 3, lines 18-21). Thus, the activities of the compounds are completely different from those of the present invention.

For all of these reasons, withdrawal of the §102 and 103 rejections is respectfully requested.

Claims 1, 5 and 6 have been rejected under 35 USC § 112, first paragraph, as not being enabled. It is the Examiner's position that the specification does not provide enablement for all unnatural amino acids, excipients, diluents or auxiliaries. In order to expedite prosecution, the recitation of "unnatural amino acids" has been removed from the pending claims. Insofar as the rejection over "excipients, diluents or auxiliaries" is concerned, the rejection is respectfully traversed. It is noted that the subject claims recite "customary pharmaceutical excipients and/or diluents or other auxiliaries". Such excipients,

diluents and auxiliaries are very familiar to persons of skill in the pharmaceutical art. No more than routine experimentation would be necessary to determine which ones would be suitable for combination with the claimed compounds for the purpose of formulating medicaments. Withdrawal of the rejection is respectfully requested.

Claims 1, 5 and 6 were rejected under 35 USC § 112, second paragraph, as being indefinite. Claim 1 has been rewritten as claim 9 with the recitations of "unnatural amino acid", and "for example" deleted from the claim. The limitations which followed the recitation "for example" have been set forth in dependent claims 10-12. It is believed that the § 112, second paragraph rejections have been overcome, and withdrawal thereof is respectfully requested.

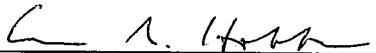
Claims 1 and 6 were objected to as containing informalities. Claim 1 has been rewritten as claim 9 to remove the expressions indicated to be informal. The phrase "can be" has been replaced by "is optionally", and unnecessary parentheses and definitions have been removed. Claim 6 has been amended as helpfully suggested by the Examiner. It is believed that the objections have been overcome, and withdrawal thereof is requested. The Examiner's indication that claim 7 would be allowable if rewritten in independent form is appreciated. Applicants respectfully defer such action until the Examiner's response to the present amendments is received.

All objections and rejections having been addressed, it is believed that the application is in condition for allowance, and Notice thereof is respectfully requested.

Respectfully submitted,

PILLSBURY MADISON & SUTRO LLP

By



Ann S. Hobbs, Ph.D.

Reg. No. 36,830

Tel No.: (202) 861-3063

Fax No.: (202) 822-0944

1100 New York Avenue, N.W.
Ninth Floor
Washington, D.C. 20005-3918